

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 WRIT PETITION NO. 11306 OF 2024

Shriram Reddy Rathod
Age 40 years, Occu. Agriculturist & Sarpanch
R/o Kanchli Tq. Kinwat,
Dist. Nanded

...Petitioner

VERSUS

1. The State Of Maharashtra
Through Divisional Commissioner
Aurangabad Division,
Aurangabad.
2. The District Collector,
Office of Collectorate,
Nanded. Tq. And Dist. Nanded
3. Devisingh s/o Rupsing Rathod
Age 45 years, Occu. Agriculturist
R/o Kanchli, Tq. Kinwant
Dist. Nanded
4. The Block Development Officer
Panchayat Samiti Kinwat
Tq. Kinwat, Dist. Nanded.
5. Shivaji s/o Ramesh Rathod
Age 46 years, Occu. Service as
Secretary of Watershed Management Committee
R/o Kanchli, Tq. Kinwat
Dist. Nanded
6. The Gramsevak,
Grampanchayat Kanchli,
R/o Office of Grampanchayat
Kanchli, Tq. Kinwat,
Dist. Nanded

...Respondents

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Mr. Gajanan G. Kadam, Advocate for the Petitioner
Mr. Rajdeep D. Raut, AGP for Respondent Nos. 1 & 2.
Mr. Umesh S. Mote, Advocate for Respondent No.3

Mr. S. B. Pulkundwar, Advocate for Respondent No.4.
Mr. Govind R. Karhale, Advocate for Respondent No.5
Mr. Amit A. Tandulkar, Advocate for Respondent No.6

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CORAM : ROHIT W. JOSHI, J.
DATED : 17th JULY 2025

ORAL JUDGMENT :-

1. Present petition is filed challenging order dated 05.03.2024 passed by respondent no.2-District Collector, Nanded holding that the sole petitioner has incurred disqualification from holding the office of Sarpanch, Village Kanchli under Section 14(1)(g) of the Maharashtra Village Panchayats Act (for short "**the Act**") and the subsequent order dated 05.08.2024 passed by respondent no.1-Divisional Commissioner, Aurangabad Division, Aurangabad dismissing appeal preferred by the petitioner challenging the order of disqualification passed by respondent no.2.

2. The petitioner is Sarpanch of Grampanchayat Kanchli, Tq. Kinwat, Dist. Nanded. Respondent No.3 who is a resident of said village had lodged a complaint with respondent no.2 stating that the petitioner and respondent no.5 had withdrawn a sum of Rs.1,64,000/- unauthorizedly from the bank account of Watershed Management Committee of the concerned Grampanchayat. It is alleged that the Watershed Management Committee has passed a resolution for carrying out work of plantation in the village and for

that purpose a sum of Rs.1,63,235/- was withdrawn by the petitioner and respondent no.5 from the account of Watershed Management Committee. The allegation is that the said work is actually not executed and making a farce of execution of work of plantation of trees having been executed, the petitioner and respondent no.5 have withdrawn the said amount and misappropriated the same.

3. Respondent no.2 has passed order dated 05.03.2024 declaring that the petitioner has incurred disqualification under Section 14(g) of the Act. As stated above, the petitioner preferred statutory appeal against the said order as per Section 16(2) of the Act which was also dismissed vide order dated 05.08.2024 passed by respondent no.1-Divisional Commissioner, Aurangabad. Respondent nos.1 and 2 have observed that the records pertaining to the execution of alleged work does not inspire confidence and it appears that the amount is misappropriated by withdrawing the same under the garb of the said work which is infact not done.

4. Since the order of disqualification is passed under Section 14(1)(g) of the Act, it is necessary to refer to the said provision. The provision is required to be interpreted having regard to the settled legal principle that laws prescribing disqualification of elected representative warrant a strict interpretation and unless the case strictly falls within the four corners of the provision an elected

representative cannot be ordered to be removed from his office.

Provision 14(1) (g) records as under :-

“14. Disqualifications.

*- [(1) No person shall be a member of a panchayat continue as such, who-]
[This existing section 14 was renumbered as sub section (1) by
Maharashtra 34 of 2000, Section 2.]*

a)...

b)...

c)...

g) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the panchayat or in any contract with, by or on behalf of, or employment with or under, the panchayat; or”

5. Perusal of the provision will indicate that there should be some working arrangement between the member and the Panchayat. He should not have any share or interest of any work done under order of the Panchayat and he should not be in employment of Panchayat.

6. In the case at hand it is undisputed that the work of plantation is not done by awarding any contract to the petitioner or any person associated with him. The work is executed, or as alleged is shown to be executed, by the Watershed Management Committee directly by employment of labour. The allegation is that the amount is misappropriated by the petitioner and respondent no.5.

7. Having regard to the mandate of the provision, misappropriation of funds, however, heinous the act may be, does not fall within the four corners of the provision. There are other

provisions under the act which may be attracted in case where a member or Sarpanch indulges act of misappropriation. However, the provision under which the order is passed is clearly not attracted assuming that the allegations are true.

8. In that view of the matter, in the considered opinion of this Court the facts of the case visualized in the backdrop of the statutory provision necessitate interference at the hands of this Court. Since the order of disqualification is passed placing reliance on the provision which is not attracted, order of disqualification passed by the respondent no.2-Collector, Nanded as also the order passed by respondent no.1- Divisional Commissioner, Aurangabad dismissing the appeal are quashed and set aside.

9. The petitioner be restored to the office of member and also Sarpanch of the concerned Grampanchayat.

10. Writ Petition is disposed of accordingly.

[ROHIT W. JOSHI, J.]